United Nations A/HRC/36/L.21

General Assembly

Distr.: Limited
26 September 2017

Original: English

Human Rights Council
Thirty-sixth session
11–29 September 2017
Agenda item 10
Technical assistance and capacity-building

Australia,* Cyprus,* France,* Japan, Spain,* United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

36/... Advisory services and technical assistance for Cambodia

The Human Rights Council,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as enshrined in the Charter of the United Nations, as reaffirmed in the Universal Declaration of Human Rights and in accordance with their respective obligations under the International Covenants on Human Rights and other applicable human rights instruments,

Recalling General Assembly resolution 60/251 of 15 March 2006,

Recalling also Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007 and stressing that the special procedure mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

Recalling further Human Rights Council resolution 30/23 of 2 October 2015 and other relevant resolutions,

Bearing in mind the report of the Secretary-General on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights,[1]

Recognizing that the tragic history of Cambodia requires special measures to ensure the protection of human rights and the non-return to the policies and practices of the past, as stipulated in the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,

Taking note of the new developments in Cambodia, especially the achievements and improvements in economic and cultural fields over recent years through its relevant national plans, strategies and frameworks,

* State not a member of the Human Rights Council.

[1] A/HRC/36/32.

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Welcoming the fact that the communal election of 4 June 2017 was held in a generally orderly and peaceful manner and that the election campaigns were largely incident-free,

1. *Reaffirms* the importance of the Extraordinary Chambers in the Courts of Cambodia as an independent and impartial body, and believes it will significantly contribute to eradicating impunity and establishing the rule of law by, inter alia, exploiting its potential as a model court of Cambodia;

2. *Welcomes* the progress made with regard to the Extraordinary Chambers in the Courts of Cambodia, including the delivery of the verdict of the Supreme Court Chamber in case 002/01 against former senior leaders of Democratic Kampuchea, Nuon Chea and Khieu Samphan, who after appeals were found guilty of crimes against humanity and sentenced to life imprisonment on 23 November 2016, and supports the position of the Government of Cambodia and the United Nations to proceed with the tribunal in a fair, efficient and expeditious manner, given the further advanced age and frail health of the persons charged and the long overdue justice for the people of Cambodia;

3. *Expresses continued concern* over the financial situation of the Extraordinary Chambers, urges the Government of Cambodia to work with the United Nations and the States providing assistance to ensure the highest standards of administration of the Extraordinary Chambers, stresses the need for the Government and the international community to provide all appropriate assistance to the Extraordinary Chambers, and also stresses the importance of efficient and sustainable management of financial resources by the Extraordinary Chambers;

4. *Calls upon* on the Government of Cambodia to transfer the knowledge and share the good practices of the court officials at the Extraordinary Chambers;

5. *Welcomes* the positive engagement of the Government of Cambodia in the second universal periodic review process and its acceptance of most of the recommendations thereon and the progress so far on their implementation;

6. *Welcomes* the reports of the Special Rapporteur on the situation of human rights in Cambodia[2] and the recommendations contained therein, also welcomes the conclusion in December 2016 of a new memorandum of understanding for the implementation of a technical cooperation programme on human rights between the Government of Cambodia and the field office in Phnom Penh of the Office of the United Nations High Commissioner for Human Rights to extend the mandate of that office for another two years, takes note of the need to maintain close and respectful consultations between the Government of Cambodia and the Special Rapporteur towards further improvements in the situation of human rights in the country and for the continued technical cooperation between the Office of the High Commissioner and the Government, and encourages the Special Rapporteur and the field office in Phnom Penh to continue to exchange information in order to assist in the effective implementation of their respective mandates, bearing in mind their independence;

7. *Encourages* the enhancement of cooperation between the Government of Cambodia and the Office of the High Commissioner, as specified in the memorandum of understanding between the Government and the field office in Phnom Penh of the Office of High Commissioner, and calls upon on the Government to implement the recommendations made by the Special Rapporteur, taking into account the national context of Cambodia;

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[2] A/HRC/27/70, A/HRC/30/58, A/HRC/33/62 and A/HRC/36/61.

8. *Reaffirms* the need for the Government of Cambodia to strengthen efforts to consolidate and abide by the rule of law, including through the adoption, amendment and further implementation of essential laws and codes for establishing a democratic society and an independent judiciary;

9. *Notes* the efforts and progress made by the Government of Cambodia in promoting legal reform under the leadership of the Council of Legal and Judicial Reform, including enforcing basic laws, such as the civil procedure code, the civil code, the criminal procedure code and the penal code;

10. *Also notes* the implementation of three fundamental laws on the judiciary, namely the Law on the Statute of Judges and Prosecutors, the Law on the Organization and Functioning of the Courts and the amendment to the Law on the Organization and Functioning of the Supreme Council of the Magistracy, and urges the Government of Cambodia to continue further its efforts at judicial reform, including through the fair, effective and transparent application of these laws;

11. *Stresses* the need for the Government of Cambodia to continue to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law and its obligations under international human rights treaties, all those who have perpetrated serious crimes, including violations of human rights, expresses deep concerns over the death of the political analyst on 10 July 2016 and the chilling effect this has had on civil society and independent voices in Cambodia, calls upon the authorities of Cambodia to launch a full and transparent probe into those cases, and stresses the importance of a full independent judicial process under the Cambodia courts of law;

12. *Notes* the efforts made by the Government of Cambodia in combating corruption, encourages the implementation of the penal code and the anti-corruption law, and also encourages the Government to continue other such efforts, including through the activities of the Anti-Corruption Unit;

13. *Welcomes* the efforts made by the Government of Cambodia in combating crimes, such as trafficking in persons, the exploitation of labour and the sexual exploitation of women and children, and urges the Government to make further efforts to this end, in concert with the international community, to combat outstanding key problems in this area;

14. *Takes note* of the latest findings regarding gender-based issues in Cambodia, and encourages the Government of Cambodia to strengthen its efforts on gender-based issues, including by effectively enforcing existing laws and regulations;

15. *Encourages* the Government of Cambodia to continue implementing its five-year strategy for gender equality, promoting women's economic, social and political empowerment, including their participation in decision-making processes, and the expansion of women's economic benefits through improved working conditions, social protection and labour standards;

16. *Also encourages*, in this context, the Government of Cambodia to monitor the implementation of the 2001 Land Law, including regarding specific obstacles to women and vulnerable groups in obtaining land ownership and rights;

17. *Notes* the efforts made by the Government of Cambodia to resolve land issues, inter alia, through the implementation of relevant laws and regulations, including a moratorium on economic land concessions and systematic land registration, expresses concern at the outstanding issues in this area, and urges the Government to continue and enhance its efforts to resolve them equitably and expeditiously in a fair and open manner, taking into consideration the rights of and the actual consequences for the parties concerned and in accordance with relevant laws and regulations, such as the Land Law, the Law on Expropriation, the Circular on the Settlement of Illegal Temporary Building in Cities and

Urban Areas and the National Housing Policy, and by strengthening the capacity and effectiveness of relevant institutions, such as the National Authority for Land Dispute Resolution and cadastral committees at the national, provincial and district levels;

18. *Also notes* the commitments made and the progress achieved by the Government of Cambodia in implementing its obligations under international human rights treaties and conventions to which it is a party, and urges the Government to continue to take steps to meet its obligations under those treaties and conventions, and to this end to strengthen its cooperation with United Nations agencies, including the Office of the High Commissioner, through enhanced dialogue and the development of joint activities;

19. *Further notes* the commitment by the Government of Cambodia to establish a national human rights institution and urges that this be done in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and upon sufficient consultation with the relevant stakeholders;

20. *Welcomes* the efforts made by the Cambodian Human Rights Committee, especially in resolving complaints from individuals;

21. *Also welcomes* the efforts and progress made by the Government of Cambodia in promoting decentralization and deconcentration reform with the aim of achieving democratic development by strengthening subnational and grass-roots institutions;

22. *Expresses serious concern* over the recent deterioration of the civil and political environment in Cambodia due to the chilling effects of repeated judicial prosecution against members of political parties, civil society and the media, in particular the recent arrest and detention of Kem Sokha, a political opposition leader, and calls upon all parties, inter alia, the ruling party, to work together towards de-escalating the tensions and building trust and confidence by restoring dialogue with the relevant stakeholders in the country, and calls upon the Government of Cambodia to guarantee the right to freedom of expression and association and fulfil its accountability for the cases concerned;

23. *Expresses concern* about the restrictions imposed on the media, civil society and political parties, including through the Law on Associations and Non-Governmental Organizations and the amendments of 28 February 2017 and on 28 July 2017 to the Law on Political Parties, urges the Government of Cambodia to make continuous efforts to ensure an environment conducive to the conduct of political activities by all political parties under democratic principles and the rule of law, and to make further efforts to improve its electoral system in accordance with international standards so that its election process as a whole is satisfactory and acceptable to all parties concerned, and calls upon the Government to take steps to ensure that the elections set to be held in July 2018 do so in an open and fair manner;

24. *Notes with concern* that the 2017 amendments to the Law on Political Parties could lead to an arbitrary restriction on the activities of political parties, encourages all stakeholders to promote a peaceful democratic process under the rule of law and adherence to a system of pluralistic liberal democracies through the participation of all elected representatives in parliamentary debate, in accordance with the Constitution, and calls upon the Government of Cambodia to ensure the protection of parliamentary immunity for this purpose;

25. *Expresses concerns* about the alleged use of legal action against critics of the government, and urges the Government of Cambodia to take appropriate measures to encourage and enable civil society, including independent trade unions and media, to play a constructive role in consolidating democratic development in Cambodia, including by

ensuring and promoting their activities and in promoting equal access to the media by all parties;

26. *Notes* the large presence of more than 5,000 entities operating associations and non-governmental organizations, urges the Government of Cambodia to further take account of the interests and concerns of all stakeholders in enacting and/or implementing various laws and measures that may affect the activities of civil society, in particular, the Law on Associations and Non-Governmental Organizations, in order to further nurture a vibrant civil society, and to protect and ensure freedom of speech, association and peaceful assembly, in accordance with the Constitution and the International Covenant on Civil and Political Rights;

27. *Encourages* the Government of Cambodia to continue to take action to promote the rights and dignity of all Cambodians by protecting civil and political rights, including freedom of opinion and expression, and to this end to ensure that all laws are interpreted and applied in a judicious manner so as to promote economic, social and cultural rights, in accordance with the rule of law;

28. *Invites* the Secretary-General, agencies of the United Nations system present in Cambodia and the international community, including civil society, to continue to work with the Government of Cambodia in strengthening democracy and ensuring the protection and promotion of the human rights of all people in Cambodia, including by providing assistance in the fields of:

(*a*) Drafting laws and assisting the establishment of an independent national human rights institution;

(*b*) Capacity-building to strengthen legal institutions, including by improving the quality and independence of judges, prosecutors, lawyers and court staff, and drawing on the expertise gained by Cambodian nationals working in the Extraordinary Chambers in the Courts of Cambodia;

(*c*) Capacity-building to strengthen national institutions for criminal investigations and law enforcement, as well as providing the equipment necessary for these ends;

(*d*) Implementation of accepted universal periodic review recommendations;

(*e*) Assisting the assessment of progress in human rights issues;

29. *Decides* to extend by two years the mandate of the Special Rapporteur on the situation of human rights in Cambodia, and requests the Special Rapporteur to report on the implementation of her mandate to the Council at its thirty-ninth and forty-second sessions, and to engage in a constructive manner with the Government of Cambodia for the further improvement of the situation of human rights in the country;

30. *Requests* the Secretary-General to provide an oral update, followed by an interactive dialogue, to the Human Rights Council at its thirty-eighth session and to report to the Council at its thirty-ninth session and forty-second sessions on the implementation of the present resolution and on the role and achievements of the Office of the High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights;

31. *Decides* to continue its consideration of the situation of human rights in Cambodia at its forty-second session.